

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

HALBERT CROMPTON,  
Petitioner,

No. 1:07-cv-797

-v-

HONORABLE PAUL L. MALONEY

KENNETH MCKEE,  
Respondent.

ORDER DENYING 52(b) MOTION

Petitioner Crompton filed a motion (Dkt. No. 32) to amend findings or for additional findings under Fed. R. Civ. P. 52(b). On March 22, 2010, this court adopted a report and recommendation over objections and dismissed Petitioner's § 2254 motion for habeas relief. Petitioner asserts the court was misled by the government's response and erroneously concluded there was evidence presented at his trial to support the "armed" element of his armed robbery conviction.

Petitioner is not entitled to the relief he seeks. As noted by Petitioner, a Rule 52(b) motion is not a proper vehicle for relitigation of the issues previously raised. *See Erickson Tool Co. v. Balas Collet Co.*, 277 F.Supp. 226, 234 (N.D. Ohio 1967), *aff'd* 404 F.2d 35 (6th Cir. 1968). Both the magistrate judge, in the report and recommendation, and this court, in the March 22 order, recognized, for the purpose of the habeas petition, that the evidence produced at trial must be viewed in the light most favorable to the prosecution. The report and recommendation, adopted as the opinion of this court, stated that trier of fact, not the reviewing court, was responsible for weighing and interpreting conflicts in testimony. Under this standard, the facts presented at trial were sufficient to convict Petitioner. Through this motion, Petitioner is attempting to relitigate the identical arguments already raised, considered and resolved against him. The court is not convinced any manifest error occurred. According, Petitioner's motion (Dkt. No. 32) is **DENIED. IT IS SO ORDERED.**

Date: April 19, 2010

/s/ Paul L. Maloney

Paul L. Maloney

Chief United States District Judge